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SUBJECT: COMMERCE SECRETARY PROMOTES U.S. EXPORTS, PUSHES
ANTI-PIRACY FIGHT IN SAO PAULO

SUMMARY

1. During his June 7-8 visit to Sao Paulo, Secretary of Commerce Carlos M. Gutierrez discussed intellectual property rights with the Governors of four states and attended a meeting of the Sao Paulo State Interagency Committee to Combat Piracy; met with leaders of major business and industrial groups and delivered a speech at the American Chamber of Commerce (AmCham) (reported septel); and toured a business apprenticeship center and spoke with a number of students there. In all his meetings and appearances, Secretary Gutierrez took the opportunity to call for closer commercial ties between the United States and Brazil, for a more investment-friendly business climate in Brazil, and for increased efforts to combat piracy. He spoke of the common challenge from China, noting that China is not only a major market but an economy in competition with the U.S. and Brazil. The visit advanced our economic/commercial agenda, receiving positive media coverage, and offered an opportunity to spread our message on the benefits of free trade and the importance of fostering a business environment that punishes piracy. END SUMMARY.

2. Following on his successful visits to Rio de Janeiro and Brasilia, Secretary of Commerce Carlos Gutierrez visited Sao Paulo June 7-8. Members of the Secretary's delegation included:

Robert Mosbacher, Jr., CEO, Overseas Private Investment Corporation (OPIC);

Steven Pinkos, Deputy U/S for Intellectual Property;
David Bohigian, A/S, Market Access and Compliance;
Patrick Duddy, DAS, Western Hemisphere, State Department;
Claire Buchan, Chief of Staff;
John Andersen, Director, Latin America and Caribbean;
Dulce Zahniser, OPIC;
Albert Angulo, Trade and Development Agency (TDA);
Anne McKinney, TDA;
Dan Nelson, Office of Public Affairs;
Dorian Mazurkevich, Patent and Trademark Office (PTO);
Phillip T. Chicola, Charge d'Affaires, a.i.;
Christopher J. McMullen, Consul General; and
John Harris, Senior Commercial Officer

BREAKFAST WITH THE GOVERNORS

13. The Secretary attended a breakfast hosted by Sao Paulo Governor Claudio Lembo and attended by three other state Governors: Germano Rigotto of Rio Grande do Sul, Eduardo Pinho Moreira of Santa Catarina, and Jose Orcirio Miranda dos Santos ("Zeca do PT") of Mato Grosso do Sul. Two other Governors, Roberto Requiao of Parana and Aecio Neves of Minas Gerais, were invited but were unable to attend; however, Governor Neves was represented by his State Secretary for Economic Development, Wilson Nelio Brumer. Several of the Governors were accompanied by their chief foreign affairs advisors or state Commerce Secretaries. The discussion was very lively and constructive and focused on four major areas: intellectual property rights (IPR), investment and partnerships, facilitating commerce (including the key role of OPIC), and bilateral cooperation on biofuels.

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14. Leading off the breakfast, Secretary Gutierrez briefed governors on his meeting with Minister for Development, Industry, and Foreign Trade Luiz Fernando Furlan and the launching of the U.S.-Brazil Commercial Dialogue announced by Presidents Bush and Lula during the President's visit to Brazil last November. The Secretary noted that the Commercial Dialogue would focus on facilitating trade by expediting customs, exchanging information that would benefit both sides, promoting IPR, and working together on common standards. He said the U.S. wants to strengthen bilateral commercial relations with Brazil, work together to combat intellectual property piracy, promote two-way investment, and increase overall trade (currently at around USD 45 billion, which he said should be higher). The Secretary observed that Brazil profits more from trade with the

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U.S., which largely involves value-added products, than from trade with China, which involves mostly commodities.

15. Brazilian Ambassador to the United States Roberto Abdenur told the Governors that Secretary Gutierrez's visit had been very productive, with excellent meetings with Minister Furlan and other senior GoB officials. He said the GoB will follow up with a visit to Washington this fall to try to move forward on issues identified in these meetings. Minister Furlan is especially interested in making greater progress on biofuels, including increased cooperation on scientific research.

INTELLECTUAL PROPERTY RIGHTS

16. Secretary Gutierrez congratulated the Governors on the progress to date in combating piracy, but urged them to do more. He observed that better IPR enforcement would protect Brazilian companies that are producing innovative products and would help attract greater U.S. investment. Rio Grande do Sul Governor Germano Rigotto stressed that all five states represented are taking strong measures to attack the IPR piracy problem because they are aware of the economic equities they have in their states. For example, Dell has a major facility in Rigotto's state. He noted the need to do a better job of information-sharing regarding cross-border piracy --

where the merchandise is coming from, who is bringing it in, where is it going. Sao Paulo Governor Lembo affirmed that the state governments have the political will to combat the problem and welcomed continuing U.S. support. Yet there remains a public perception, noted Minas Gerais State Secretary Brumer, that there is nothing wrong with piracy; this complicates and impedes law enforcement efforts. Governor Pinho of Santa Catarina echoed Rigotto's point about the need to combat piracy as key to achieving the goal of attracting more U.S. investment. Governor Zeca of Mato Grosso do Sul, which has a long border with Paraguay and Bolivia, called for a stronger partnership with the U.S. in the area of combating cross-border contraband.

BIOFUELS

17. The Governors expressed great interest in the issue of developing biofuels. Several of the states, including Rio Grande do Sul, are already intensifying their efforts in this area and are seeking partnerships. Speaking for the GoB, Ambassador Abdenur

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recognized the need for closer cooperation with the U.S. and for more U.S. investment in Brazil. He suggested the two countries form a working group to focus on building a global partnership on ethanol. Both Abdenur and Governor Lembo called on the U.S. to eliminate the 54-cent per gallon surcharge on imported ethanol. Secretary Gutierrez noted that President Bush has committed the U.S.

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to developing alternative energy sources, including ethanol. This initiative opens up possibilities to work with Brazil. There are U.S. investors who would be interested in working with Brazilian companies in developing this area. Bilateral cooperation in this area would benefit both sides. The Secretary said the U.S. could learn something in this area since Brazil is far ahead of the U.S. in alternative energy. He promised to take the biofuels question back to Washington with him.

INFRASTRUCTURE INVESTMENT

18. The Governors then raised the question of Brazil's critical need for infrastructure improvement and the GoB's public-private partnership (PPP) Program. Governor Rigotto noted that all five states have the necessary legislation in place to implement PPPs, but the National Bank for Economic and Social Development (BNDES) needs to help facilitate financing of large infrastructure projects.

Several others chimed in, pointing out that it is difficult for states and municipalities to find funds for big infrastructure projects. They are looking for partnerships with U.S. entities. For example, Minas Gerais has three big projects that would welcome U.S. investments -- highways, prisons, and basic sanitation facilities. In this context, CEO Mosbacher explained the role of OPIC in supporting U.S. investors interested in infrastructure projects, particularly housing for low- and medium- income families.

He also underscored the importance of facilitating licenses and permits for such investments. Several of the governors present indicated their interest in such programs, and Mosbacher committed to following up with them to outline possible housing programs and infrastructure activities in their states.

TRADE FACILITATION

19. In the area of trade facilitation, Senior Commercial Officer John Harris urged the Governors to promote greater participation in U.S. trade shows, and offered to facilitate broader Brazilian participation. Governor Rigotto replied that the states would very much like to take advantage of these trade shows and asked that FCS provide information early enough to allow state governments to get word out to companies.

ANTI-PIRACY COMMITTEE MEETING

¶10. Following the breakfast, the Secretary and the Governors met with the Sao Paulo State Anti-Piracy Committee, a group formed in January of this year by then Governor (and now Presidential candidate) Geraldo Alckmin. The Committee is composed of the Governor, his Chief of Staff, the Attorney General, and six State Secretaries (Justice; Finance; Public Security; Labor; Culture; and

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Science, Technology, and Economic Development) and members of their staffs. Sao Paulo is the second state to create an anti-piracy committee; the first was Rio Grande do Sul, whose committee includes representatives of the private sector as well. The Sao Paulo Committee was created in response to strong and energetic advocacy by the Consulate.

¶11. Sao Paulo State Attorney General Elival da Silva Ramos began by commenting on the importance of public and private participation in fighting copyright piracy. He criticized the federal government for its inability to control the traffic of pirated goods at the borders and ports. He also commented on the deleterious effects of piracy in terms of lost tax revenue, competitiveness, and innovation. The State Secretary of Finance, Luiz Tacca Junior, commented on the state of Sao Paulo's capacity to attack counterfeit goods, focusing on a recent campaign against what the state government calls "counterfeit fuel" - watered down ethanol and gasoline. Recent successes in combating adulterated fuel were attributed to a successful public education campaign, aggressive prosecution of traffickers in diluted fuel, and stricter licensing requirements and closer state scrutiny of fuel distributors. Tacca was grateful for cooperation received from the U.S. in training the state's Fiscal Intelligence Unit, which has become an effective police unit in the fight against money laundering. Tacca emphasized the lost revenue angle, noting that much can be done to fight piracy on the tax evasion side of law enforcement. He concluded by acknowledging that much work remains to be done in terms of encouraging businesses to participate in the "legal economy." Brazil's rampant tax evasion, off-the-books transactions, and under-invoicing make it critical for the government to offer incentives for gray market and "irregular" businesses to enter the formal economy and operate within the law.

¶12. At this point, Attorney General Ramos noted that Sao Paulo is at the legal limit in terms of its power to enforce IPR. In Brazil's federal system, all criminal legislation, including in the area of intellectual property, is made at the national level. The state's only real power to fight piracy comes from the state tax laws. This is the only angle that allows Sao Paulo to act above and beyond the federally mandated guidelines. Nevertheless, Sao Paulo will remain active in pursuing tax evaders as a means of inhibiting counterfeiting.

¶13. Following Tacca's remarks, Sao Paulo State Deputy Secretary for Public Security, Marcelo Martins de Oliveira, gave an overview of Sao Paulo's recent successes in fighting piracy. Oliveira praised the police department's organized crime division (DEIC), which includes a unit dedicated to piracy, or crimes against "immaterial property." This unit has recently conducted 1,812 operations, resulting in 4,500 indictments, 2,103 prosecutions, and over 400 imprisonments. DEIC raids have netted 3.7 million toys, 8.16 million CDs and DVDs, 300,000 tennis shoes, 400,000 watches, and 450,000 pieces of counterfeit clothing. Oliveira concluded by saying that despite DEIC's excellent track record, piracy will be an unsolvable problem until the federal government is better able to control its ports and borders. Nevertheless, Sao Paulo's police force is "unequivocally" dedicated to the continued fight against piracy. Oliveira concluded by personally thanking the U.S. Consulate General in Sao Paulo for its "invaluable and unceasing assistance in the fight against piracy and drug trafficking."

¶14. Secretary of Culture Joao Batista was the next to comment on the ills of piracy in Sao Paulo. Batista criticized piracy as an attack on Brazilian culture, specifically in the music market, where 75 percent of music sales in Brazil are of works by national artists and 52 percent of those are of counterfeit products. In contrast with music sales, the Brazilian film market is dominated by foreign films. Nevertheless, piracy is still a threat to Brazilian cinema. To reinforce the reality of this threat, Batista recounted the story of a pirated DVD version of the Brazilian blockbuster movie "Dois Filhos de Francisco" being watched aboard Brazilian President Lula's executive airplane. [NOTE: Perhaps the most important, certainly the most popular film ever made in Brazil, "Francisco's Two Sons" was Brazil's top grossing film at the box office in 2005. Filmed on a budget of less than USD 3 million, it outperformed several of the top twenty highest grossing films of all time, worldwide. "Francisco's Two Sons" was also nominated for an Oscar in the international film category. END NOTE.] Batista cited the failure of the federal government to secure the borders as the prime culprit behind the large market for pirated material in Sao Paulo. He then reiterated the need for cooperation between state and federal authorities on this issue.

¶15. Governor Lembo issued an invitation for the U.S. Consul General to participate in the periodic meetings of the Sao Paulo Anti-Piracy Council. He extended the invitation to other consulate staff to attend the public hearings of the council. Executive Secretary of the Sao Paulo state Anti-Piracy Committee Marco Vaz Guimaraes de Souza Netto then outlined the Committee's approach to the issue. The Committee, which convened for the first time in May of this year, has the following priorities: pursuing tax evasion, cracking down on money laundering, improving the warehousing of seized goods, and perfecting the logistics of combating piracy -- meaning developing the process from seizure of goods through prosecution to storage and ultimate destruction. Netto noted that many warehouses are currently donated by anti-piracy groups, such as, for example, the Motions Picture Association; however, warehouse capacity will soon be outstripped by the tidal wave of incoming seized contraband.

¶16. Echoing the State Secretary of Culture, Governor Rigotto complained that the federal government's inability to effectively police the borders was responsible for the problems of piracy arriving on the "our states'" doorsteps. Noting that two of the states represented at the meeting - his own (which borders on Argentina and Uruguay) and Mato Grosso do Sul - bordered on other countries and that several others were home to major ports, he then made the bold suggestion that the Governors present form a working group comprised of the Secretaries in each government responsible for combating piracy, including the Secretaries of Finance, Security, and Culture, among others. While recognizing that the states bordering on Paraguay (Mato Grosso do Sul; Parana was not represented at the meeting) face the largest challenges, Rigotto pointed out that the products that cross through these states ultimately end up on the streets of Sao Paulo and elsewhere.

¶17. Mato Grosso Do Sul Governor Miranda dos Santos (Zeca do PT) immediately seized on this idea, saying the border states and major markets could help each other immensely. He noted that counterfeit fuel from Sao Paulo is sold in Mato Grosso do Sul, and that drugs from Bolivia and Paraguay make their way through his state to Sao

Paulo. Thus, they had a lot to learn from each other and much to gain by coordinating efforts. Governor Zeca thanked the U.S. for its helpful drug enforcement presence in Paraguay and Bolivia and called for a greater U.S. presence in the Brazilian border states themselves. Santa Catarina Governor Pinho denied that his state had a large problem with piracy but expressed a willingness to participate in a regional working group. He also noted that Santa Catarina's Federation of Industries (FIESC) has great expertise to lend in this area.

¶18. Secretary Gutierrez thanked everyone for their comments and stated that in order to better fight piracy, we need better information. For example, it would be good to know how much illicit material is being produced locally and how much is being imported, and from where. In the United States, 70 percent of all counterfeit goods come from China; this is a useful figure for us to have when making policies to fight piracy. He asked the participants to share information they may have with him. In response, Governor Germano Rigotto clarified that most of Brazil's pirated goods comes from China via Paraguay and enters through weakly policed ports and borders in the form of textiles, computer software and hardware, CDs, and DVDs. He noted that all counterfeit cigarettes in Brazil are manufactured in Paraguay, with falsified brand names. No counterfeit cigarettes are made in Brazil. There is, however, a large counterfeit computer industry in Brazil, for which all manufacturing takes place locally. Rigotto advocated that the states play a stronger role in breaking up these illegal businesses.

¶19. Commerce Deputy Under Secretary Stephen Pinkos of the Patent and Trademark Office then commented that Brazil is to be congratulated on its recent successes in combating piracy. He also highlighted training programs currently being conducted in Brazil by the Department of Homeland Security and the Department of Justice. Pinkos then described the success the U.S. has had in organizing federal task forces, which combine federal, state, and local police efforts to combat piracy, even though ultimately the charges that will be brought are federal. He suggested that the U.S. could work with Brazil to share experiences from this model and help Brazilian authorities implement a similar framework to fight piracy. He also emphasized the health costs of piracy, which go beyond lost tax revenue and unfair competition. Ten percent of medication worldwide is counterfeited, as are many auto parts. The public safety ramifications of this phenomenon are sobering and need to receive wider public attention.

¶20. Governor Lembo closed the Roundtable suggesting that the Governors' respective Chiefs of Staff contact each other to set up a sub-regional working group meeting. Lembo offered to host the meeting in Sao Paulo, and suggested that the first meeting occur in the latter half of July, adding, "After the World Cup, of course."

VISIT TO SENAC CENTER

¶21. Secretary Gutierrez next visited a branch of the National Commercial Apprenticeship Service (SENAC). SENAC is a University system begun in 1946 with the support of different Federations of Industry, including FIESP, which wanted to begin a system of schools

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that would increase the country's stock of technically trained students. SENAC has 56 units in Sao Paulo State alone. The Secretary, Consul General, and Senior Commercial Officer were

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greeted by Joao Kulcsar, Director of the U.S. Study Center; Abram Szajman, President of SENAC and of the Federation of Commerce for Sao Paulo; and Emelio Umeoka, President of Microsoft. The group toured SENAC's library, where they were given an overview of SENAC's activities and resources, and then went across campus to Microsoft's Center of Innovation learning center. Umeoka provided an overview of Microsoft's investment in youth education and the goals of the Innovation Center, as well as a summary of other Microsoft corporate responsibility programs in Brazil. Following a photo with some of the Center's students, the Secretary and others were escorted to a classroom, where they spent 30 minutes speaking to twelve students in a roundtable format about their different classes, incubator businesses, and hopes for future employment. A brief interview with SENAC's internal television station followed, and Szajman and Umeoka and other SENAC representatives took their leave of the Secretary and his delegation.

POSITIVE PRESS PLAY

¶22. Media coverage of the visit was generally positive, comprehensive and objective. There was much press interest in the Secretary - both his morning press conference with the Governors and

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his late afternoon media roundtable, as well as his speech at AmCham, were covered by all major dailies, all TV networks, business dailies and newsweeklies, and wire services. The questions he received from Brazilian journalists at the roundtable were probing and well-informed, but neither hostile nor friendly. The Secretary's statements were accurately represented, and the main

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points that he emphasized - greater Inter-American commercial and trade cooperation and integration; viewing China and India not only as potential markets, but also competitors; highlighting the positive steps that have been taken to combat piracy, but noting that more remains to be done - were covered. "Folha de Sao Paulo," the largest circulation daily newspaper, noted that he didn't mention FTAA in public at all, but seemed to focus more on bilateral efforts. The reporting was much more factual than analytical. Overall, the reporting was comprehensive, fair, and, on balance, positive.

COMMENT

¶23. This was a highly successful visit that advanced key aspects of our economic and commercial agenda. The Secretary brought with him a clear, coherent message on the USG's trade policies and priorities, and he delivered it effectively to state government officials, business leaders, and the omnipresent Brazilian Ambassador. He also demonstrated a keen awareness of Brazilian concerns on trade issues as well as a willingness to listen. If, in the aftermath of his visit, Brazilian federal and state law enforcement agencies actually implement their proposal to communicate better with each other on issues related to combating IPR piracy, the visit will have accomplished something tangible and positive for both sides. END COMMENT.

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¶24. This cable was coordinated/cleared with Embassy Brasilia.

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